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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-851]

Certain Preserved Mushrooms from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert the publication date in the Federal Register.]

SUMMARY: On September 14, 2011, the Department of Commerce (the Department) published in the Federal Register the final results of administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC). See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission in Part, 76 FR 56732 (September 14, 2011) (Final Results). The period of review is February 1, 2009, through January 31, 2010. We are amending our final results to correct a ministerial error.

FOR FURTHER INFORMATION CONTACT: Fred Baker, Scott Hoefke, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2924, (202) 482-4947 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION

Background

19 CFR 351.224(c)(2) states that a party to an antidumping duty proceeding must file comments concerning ministerial errors within five days after the earlier of the date on which the

Secretary released documents to that party or held a disclosure meeting with that party. We released disclosure documents to Blue Field (Sichuan) Food Industrial Co., Ltd. (“Blue Field”) and Zhejiang Iceman Group, Co., Ltd. (“Iceman Group”) on September 7, 2011. On September 12, 2011, Blue Field filed a timely allegation of a ministerial error with the Department. On September 14, 2011, the Department released disclosure documents to Xiamen International Trade & Industrial Co., Ltd. (“XITIC”), thus establishing the deadline for XITIC’s ministerial error comments as September 19, 2011. On September 19, 2011, XITIC and Iceman Group filed allegations of ministerial errors with the Department. On September 26, 2011, Monterey Mushrooms, Inc. (petitioner) filed rebuttal comments in response to the filings from XITIC and Iceman Group.

On October 5, 2011, the Department rejected from the record Iceman Group’s September 19, 2011, submission because it was untimely given that the Department released all disclosure materials to it on September 7, 2011. On October 7, 2011, Iceman Group submitted a letter arguing that its September 19, 2011, submission was not untimely because, *inter alia*, it actually had not received all disclosure materials on September 7, 2011. Specifically, Iceman Group claimed that it had not received the computation of the rate for the separate-rate respondents. The Department subsequently determined that it had indeed failed to release to interested parties the computation of the rate for the separate-rate respondents. Therefore, on October 18, 2011, the Department released this computation to all interested parties and also invited Iceman Group to resubmit its September 19, 2011, submission.

No interested parties submitted ministerial error allegations with respect to the computation of the rate for the separate-rate respondents. Iceman Group resubmitted its ministerial error allegation on October 25, 2011.

Ministerial Errors

A ministerial error as defined in section 751(h) of the Tariff Act of 1930, as amended (“the Act”), includes “errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error with the administering authority considers ministerial.”¹ In this review, interested parties have alleged a total of four ministerial errors.

- Blue Field alleges that the Department erred in its normal value calculation by applying incorrect programming language regarding the cost of metal lids for tin can products.
- XITIC alleges that the Department erred in failing to value labor using the methodology announced in Antidumping Methodologies in Proceedings Involving Non-Market Economics: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011).
- XITIC also alleges the Department used an incorrect surrogate value for its lime input.
- Iceman Group alleges the Department made a clerical error by including Iceman Group in the proceedings.

No interested party commented on Blue Field’s allegation. After analyzing Blue Field’s allegation, we find, in accordance with section 751(h) of the Act and 19 CFR 351.224(f), that the Department made a ministerial error in its normal value calculation by applying incorrect programming language regarding the cost of metal lids for tin can products.. Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the Final Results for Blue Field and the weighted-average margin for companies that applied for separate-rate status. For details, see Memorandum from Scott Hoefke to the File, Subject: “Analysis of Data Submitted by Blue Field (Sichuan) Food Industrial Co., Ltd. (Blue Field) in the Amended

¹ See also 19 CFR 351.224(f).

Final Results of Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China," dated concurrently with this notice.

With respect to both of XITIC's allegations, petitioners argue that they constitute methodological issues, and not ministerial errors.

After analyzing the interested parties' allegations and reply comments regarding XITIC, we find, in accordance with section 751(h) of the Act, that the allegations made by XITIC challenge methodological determinations in the final results, rather than any clerical errors made in carrying out its intentions. XITIC cited no record evidence in its ministerial error allegation that it was the Department's intention in preparing the final results to use either the labor rate methodology announced on June 21, 2011, or to value lime using any surrogate value other than the one it used in the final results. Thus, XITIC's allegations do not fall under the definition of a ministerial error set forth in 751(h) of the Act and 19 CFR 351.224(f). Therefore, the Department has not amended the final results with respect to XITIC's allegations.

Finally, Iceman Group argues that the Department made a clerical error by including Iceman Group in the proceedings. Iceman Group claims that no party requested a review of Iceman Group, and that the Department did not initiate an administrative review of shipments by Iceman Group. Instead, Iceman Group argues, petitioners requested a review of Zhejiang Iceman Food, Co., Ltd. ("Iceman Food"), and it was on this entity that the Department initiated an administrative review.

Petitioner argues the Department should reject Iceman Group's argument for three reasons: (1) Iceman Group actively participated in the administrative proceedings before the Department (submitting a separate rate certification) and its counsel filed an entry of appearance

on behalf of Iceman Food; (2) the Department's Preliminary Results² specifically identified Iceman Group as an entity preliminarily eligible for a separate rate; and (3) Iceman Group's attempt to raise this issue as a clerical error – rather than having raised it during the Department's on-going proceedings – is an inappropriate use of the clerical error provision in the Department's regulations.

After analyzing the interested parties' allegations and reply comments regarding Iceman Group, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we find that the Department did not err by including Iceman Group in the proceedings. First, the allegations made by Iceman Group do not fall under the definition of "ministerial error" set forth in 751(h) of the Act and 19 CFR 351.224(f). Additionally, four reasons support equating Iceman Group with the entity Iceman Food: (1) counsel filed an entry of appearance on behalf of Iceman Food on April 5, 2010; (2) Iceman Group, which never filed a separate notice of appearance, filed a certification for a separate rate on April 29, 2010; (3) the separate rate certification filed by Iceman Group lists the company website as www.icemanfood.com and the company e-mail address as "jacky@icemanfood.com;" and (4) Iceman Group did not comment on the Preliminary Results, which specifically list Iceman Group as preliminarily receiving a separate rate. Therefore, the Department correctly and reasonably assigned a separate rate to Iceman Group as a result of counsel's representation of Iceman Group and Iceman Food, and the party's own actions before the Department indicating that the two names apply to the same company which is subject to the review. Thus, the Department will not amend the Final Results for Iceman Group other than to account for adjustments to the weighted-average margin for companies that applied for separate-rates status as described above.

² See Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Recission in Part, and Intent to Rescind in Part, 76 FR 12704 (March 8, 2011) (Preliminary Results)

Amended Final Results of the Review

The Department has determined that the following amended margins exist for the period February 1, 2009, through January 31, 2010.

Exporter	Weighted-Average Margin (Percent)
Blue Field (Sichuan) Food Industrial Co., Ltd.	2.17
Ayecue (Liaocheng) Foodstuff Co., Ltd.	76.12
Fujian Golden Banyan Foodstuffs Industrial Co., Ltd.	76.12
Shandong Jiufa Edible Fungus Corporation, Ltd.	76.12
Zhejiang Iceman Group Co., Ltd.	76.12

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212 (b), the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP that are related to the amended final results 15 days after the of publication of the amended final results of review.

Cash Deposit Requirements

Cash deposit requirements related to the amended final results will be effective retroactively for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section

751(a)(2)(C) of the Act. The cash deposit rates for companies whose rate was corrected are noted above. For previously investigated or reviewed PRC and non-PRC exporters that have separate rates whose rate has not changed as a result of these amended final results, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period. For all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 198.63 percent. For all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

____November 4, 2011_____
Date

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